

Chapter 25b
Utah Schools for the Deaf and the Blind

Part 1
General Provisions

53A-25b-101 Title.

This chapter is known as the "Utah Schools for the Deaf and the Blind."

Enacted by Chapter 294, 2009 General Session

53A-25b-102 Definitions.

As used in this chapter:

- (1) "Advisory council" means the Advisory Council for the Utah Schools for the Deaf and the Blind.
- (2) "Alternate format" includes braille, audio, or digital text, or large print.
- (3) "Associate superintendent" means:
 - (a) the associate superintendent of the Utah School for the Deaf; or
 - (b) the associate superintendent of the Utah School for the Blind.
- (4) "Blind" means:
 - (a) if the person is three years of age or older but younger than 22 years of age, having a visual impairment that, even with correction, adversely affects educational performance or substantially limits one or more major life activities; and
 - (b) if the person is younger than three years of age, having a visual impairment.
- (5) "Blindness" means an impairment in vision in which central visual acuity:
 - (a) does not exceed 20/200 in the better eye with correcting lenses; or
 - (b) is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.
- (6) "Board" means the State Board of Education.
- (7) "Cortical visual impairment" means a neurological visual disorder:
 - (a) that:
 - (i) affects the visual cortex or visual tracts of the brain;
 - (ii) is caused by damage to the visual pathways to the brain;
 - (iii) affects a person's visual discrimination, acuity, processing, and interpretation; and
 - (iv) is often present in conjunction with other disabilities or eye conditions that cause visual impairment; and
 - (b) in which the eyes and optic nerves of the affected person appear normal and the person's pupil responses are normal.
- (8) "Deaf" means:
 - (a) if the person is three years of age or older but younger than 22 years of age, having a hearing impairment, whether permanent or fluctuating, that, even with amplification, adversely affects educational performance or substantially limits one or more major life activities; and
 - (b) if the person is younger than three years of age, having a hearing impairment.
- (9) "Deafblind" means:
 - (a) if the person is three years of age or older but younger than 22 years of age:
 - (i) deaf;
 - (ii) blind; and

- (iii) having hearing and visual impairments that cause such severe communication and other developmental and educational needs that the person cannot be accommodated in special education programs solely for students who are deaf or blind; or
 - (b) if the person is younger than three years of age, having both hearing and vision impairments that are diagnosed as provided in Section 53A-25b-301.
- (10) "Deafness" means a hearing loss so severe that the person is impaired in processing linguistic information through hearing, with or without amplification.
- (11) "Educator" means a person who holds:
- (a)
 - (i) a license issued under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act; and
 - (ii) a position as:
 - (A) a teacher;
 - (B) a speech pathologist;
 - (C) a librarian or media specialist;
 - (D) a preschool teacher;
 - (E) a guidance counselor;
 - (F) a school psychologist;
 - (G) an audiologist; or
 - (H) an orientation and mobility specialist; or
 - (b)
 - (i) a bachelor's degree or higher;
 - (ii) credentials from the governing body of the professional's area of practice; and
 - (iii) a position as:
 - (A) a Parent Infant Program consultant;
 - (B) a deafblind consultant;
 - (C) a school nurse;
 - (D) a physical therapist;
 - (E) an occupational therapist;
 - (F) a social worker; or
 - (G) a low vision specialist.
- (12) "Functional blindness" means a disorder in which the physical structures of the eye may be functioning, but the person does not attend to, examine, utilize, or accurately process visual information.
- (13) "Functional hearing loss" means a central nervous system impairment that results in abnormal auditory perception, including an auditory processing disorder or auditory neuropathy/dys-synchrony, in which parts of the auditory system may be functioning, but the person does not attend to, respond to, localize, utilize, or accurately process auditory information.
- (14) "Hard of hearing" means having a hearing loss, excluding deafness.
- (15) "Hearing impairment" includes hard of hearing, deafness, or functional hearing loss.
- (16) "Individualized education program" or "IEP" means:
- (a) a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; or
 - (b) an individualized family service plan developed:
 - (i) for a child with a disability who is younger than three years of age; and
 - (ii) in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

- (17) "LEA" means a local education agency that has administrative control and direction for public education.
- (18) "LEA of record" means the school district of residence of a student as determined under Section 53A-2-201.
- (19) "Low vision" means an impairment in vision in which:
 - (a) visual acuity is at 20/70 or worse; or
 - (b) the visual field is reduced to less than 20 degrees.
- (20) "Parent Infant Program" means a program at the Utah Schools for the Deaf and the Blind that provides services:
 - (a) through an interagency agreement with the Department of Health to children younger than three years of age who are deaf, blind, or deafblind; and
 - (b) to children younger than three years of age who are deafblind through Deafblind Services of the Utah Schools for the Deaf and the Blind.
- (21) "Section 504" means Section 504 of the Rehabilitation Act of 1973.
- (22) "Section 504 accommodation plan" means a plan developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to an individual with a disability to ensure access to major life activities.
- (23) "Superintendent" means the superintendent of the Utah Schools for the Deaf and the Blind.
- (24) "Visual impairment" includes partial sightedness, low vision, blindness, cortical visual impairment, functional blindness, and degenerative conditions that lead to blindness or severe loss of vision.

Enacted by Chapter 294, 2009 General Session

53A-25b-103 Utah Schools for the Deaf and the Blind created -- Designated LEA -- Services statewide.

- (1) The Utah Schools for the Deaf and the Blind is created as a single public school agency that includes:
 - (a) the Utah School for the Deaf;
 - (b) the Utah School for the Blind;
 - (c) programs for students who are deafblind; and
 - (d) the Parent Infant Program.
- (2) Under the general control and supervision of the board, consistent with the board's constitutional authority, the Utah Schools for the Deaf and the Blind:
 - (a) may provide services to students statewide:
 - (i) who are deaf, blind, or deafblind; or
 - (ii) who are neither deaf, blind, nor deafblind, if allowed under rules of the board established pursuant to Section 53A-25b-301; and
 - (b) shall serve as the designated LEA for a student and assume the responsibilities of providing services as prescribed through the student's IEP or Section 504 accommodation plan when the student's LEA of record, parent or legal guardian, and the Utah Schools for the Deaf and the Blind determine that the student be placed at the Utah Schools for the Deaf and the Blind.
- (3) When the Utah Schools for the Deaf and the Blind becomes a student's designated LEA, the LEA of record and the Utah Schools for the Deaf and the Blind shall ensure that all rights and requirements regarding individual student assessment, eligibility, services, placement, and procedural safeguards provided through the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq. and Section 504 of the Rehabilitation Act of 1973, as amended, remain in force.

- (4) Nothing in this section diminishes the responsibility of a student's LEA of record for the education of the student as provided in Title 53A, Chapter 15, Part 3, Education of Children with Disabilities.

Enacted by Chapter 294, 2009 General Session

53A-25b-104 Corporate powers.

- (1) The Utah Schools for the Deaf and the Blind is a public corporation with perpetual succession and a corporate seal.
- (2) The Utah Schools for the Deaf and the Blind may:
 - (a) sue and be sued;
 - (b) contract and be contracted with;
 - (c) take and hold by purchase, gift, devise, or bequest real and personal property required for its uses; and
 - (d) convert property, if not suitable for its use, into other property or money.
- (3) The property of the Utah Schools for the Deaf and the Blind is exempt from taxes and assessments.

Enacted by Chapter 294, 2009 General Session

53A-25b-105 Applicability of statutes to the Utah Schools for the Deaf and the Blind.

- (1) The Utah Schools for the Deaf and the Blind is subject to Title 53A, State System of Public Education, and other state laws applicable to public schools, except as otherwise provided by this chapter.
- (2) The following provisions of Title 53A, State System of Public Education, do not apply to the Utah Schools for the Deaf and the Blind:
 - (a) provisions governing the budgets, funding, or finances of school districts or charter schools; and
 - (b) provisions governing school construction.
- (3) Except as provided in this chapter, the Utah Schools for the Deaf and the Blind is subject to state laws governing state agencies, including:
 - (a) Title 51, Chapter 5, Funds Consolidation Act;
 - (b) Title 51, Chapter 7, State Money Management Act;
 - (c) Title 52, Chapter 4, Open and Public Meetings Act;
 - (d) Title 63A, Utah Administrative Services Code;
 - (e) Title 63G, Chapter 2, Government Records Access and Management Act;
 - (f) Title 63G, Chapter 4, Administrative Procedures Act;
 - (g) Title 63G, Chapter 6a, Utah Procurement Code;
 - (h) Title 63J, Chapter 1, Budgetary Procedures Act;
 - (i) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
 - (j) Title 67, Chapter 19, Utah State Personnel Management Act.

Amended by Chapter 347, 2012 General Session

Part 2
Governance

53A-25b-201 Authority of the State Board of Education -- Rulemaking -- Superintendent -- Advisory Council.

- (1) The State Board of Education is the governing board of the Utah Schools for the Deaf and the Blind.
- (2)
 - (a) The board shall appoint a superintendent for the Utah Schools for the Deaf and the Blind.
 - (b) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the qualifications, terms of employment, and duties of the superintendent for the Utah Schools for the Deaf and the Blind.
- (3) The superintendent shall:
 - (a) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Deaf based on:
 - (i) demonstrated competency as an expert educator of deaf persons; and
 - (ii) knowledge of school management and the instruction of deaf persons;
 - (b) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Blind based on:
 - (i) demonstrated competency as an expert educator of blind persons; and
 - (ii) knowledge of school management and the instruction of blind persons, including an understanding of the unique needs and education of deafblind persons.
- (4)
 - (a) The board shall:
 - (i) establish an Advisory Council for the Utah Schools for the Deaf and the Blind and appoint no more than 11 members to the advisory council;
 - (ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operation of the advisory council; and
 - (iii) receive and consider the advice and recommendations of the advisory council but is not obligated to follow the recommendations of the advisory council.
 - (b) The advisory council described in Subsection (4)(a) shall include at least:
 - (i) two members who are blind;
 - (ii) two members who are deaf; and
 - (iii) two members who are deafblind or parents of a deafblind child.
- (5) The board shall approve the annual budget and expenditures of the Utah Schools for the Deaf and the Blind.
- (6)
 - (a) On or before the November interim meeting each year, the board shall report to the Education Interim Committee on the Utah Schools for the Deaf and the Blind.
 - (b) The board shall ensure that the report described in Subsection (6)(a) includes:
 - (i) a financial report;
 - (ii) a report on the activities of the superintendent and associate superintendents;
 - (iii) a report on activities to involve parents and constituency and advocacy groups in the governance of the school; and
 - (iv) a report on student achievement, including:
 - (A) longitudinal student achievement data for both current and previous students served by the Utah Schools for the Deaf and the Blind;
 - (B) graduation rates; and
 - (C) a description of the educational placement of students exiting the Utah Schools for the Deaf and the Blind.

Amended by Chapter 188, 2016 General Session

Part 3

Services and Educational Programs

53A-25b-301 Eligibility for services of the Utah Schools for the Deaf and the Blind.

- (1) Except as provided in Subsections (3) and (4), a person is eligible to receive services of the Utah Schools for the Deaf and the Blind if the person is:
- (a) a resident of Utah;
 - (b) younger than 22 years of age;
 - (c) referred to the Utah Schools for the Deaf and the Blind by the person's school district of residence or a local early intervention program; and
 - (d) identified as deaf, blind, or deafblind through:
 - (i) the special education eligibility determination process; or
 - (ii) the Section 504 eligibility determination process.
- (2)
- (a) In diagnosing a person younger than age three who is deafblind, the following information may be used:
 - (i) ophthalmological and audiological documentation;
 - (ii) functional vision or hearing assessments and evaluations; or
 - (iii) informed clinical opinion conducted by a person with expertise in deafness, blindness, or deafblindness.
 - (b) Informed clinical opinion shall be:
 - (i) included in the determination of eligibility when documentation is incomplete or not conclusive; and
 - (ii) based on pertinent records related to the person's current health status and medical history, an evaluation and observations of the person's level of sensory functioning, and the needs of the family.
- (3)
- (a) A student who qualifies for special education shall have services and placement determinations made through the IEP process.
 - (b) A student who qualifies for accommodations under Section 504 shall have services and placement determinations made through the Section 504 team process.
 - (c) A parent or legal guardian of a child who is deaf, blind, or deafblind shall make the final decision regarding placement of the child in a Utah Schools for the Deaf and the Blind program or in a school district or charter school program subject to special education federal regulations regarding due process.
- (4)
- (a) A nonresident may receive services of the Utah Schools for the Deaf and the Blind in accordance with rules of the board.
 - (b) The rules shall require the payment of tuition for services provided to a nonresident.
- (5)
- (a) The board shall make rules in accordance with this chapter and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that determine the eligibility of students to be served by the Utah Schools for the Deaf and the Blind.

- (b) The board may make rules to allow a resident of Utah who is neither deaf, blind, nor deafblind to receive services of the Utah Schools for the Deaf and the Blind if the student:
 - (i) is younger than 22 years of age and has an IEP; or
 - (ii) is younger than 19 years of age.

Enacted by Chapter 294, 2009 General Session

53A-25b-302 Entrance policies and procedures.

With input from the Utah Schools for the Deaf and the Blind, school districts, parents, and the advisory council, the board shall establish entrance policies and procedures that IEP teams and Section 504 teams are to consider in making placement recommendations at the Utah Schools for the Deaf and the Blind.

Enacted by Chapter 294, 2009 General Session

53A-25b-303 Educational programs.

- (1) The Utah Schools for the Deaf and the Blind shall provide an educational program for a student:
 - (a) based on assessments of the student's abilities; and
 - (b) in accordance with the student's IEP or Section 504 accommodation plan.
- (2) If a student's ability to access the core curriculum is impaired primarily due to a severe sensory loss, the Utah Schools for the Deaf and the Blind shall provide an educational program that will enable the student, with accommodations, to access the core curriculum.
- (3) The Utah Schools for the Deaf and the Blind shall provide instruction in Braille to students who are blind as required by Chapter 25a, Blind Persons' Literacy Rights and Education Act.

Enacted by Chapter 294, 2009 General Session

53A-25b-304 U-PASS testing.

The Utah Schools for the Deaf and the Blind shall annually administer, as applicable, the U-PASS tests specified in Section 53A-1-602, except a student may take an alternative test in accordance with the student's IEP.

Amended by Chapter 291, 2012 General Session

53A-25b-305 Collaboration with Department of Health.

The Utah Schools for the Deaf and the Blind shall collaborate with the Department of Health to provide services to children with disabilities who are younger than three years of age in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

Enacted by Chapter 294, 2009 General Session

53A-25b-306 Programs for deafblind individuals -- State deafblind education specialist.

- (1) The board shall adopt policies and programs for providing appropriate educational services to individuals who are deafblind.
- (2) Except as provided in Subsection (4), the board shall designate an employee who holds a deafblind certification or equivalent training and expertise to:

- (a) act as a resource coordinator for the board on public education programs designed for individuals who are deafblind;
 - (b) facilitate the design and implementation of professional development programs to assist school districts, charter schools, and the Utah Schools for the Deaf and the Blind in meeting the educational needs of those who are deafblind; and
 - (c) facilitate the design of and assist with the implementation of one-on-one intervention programs in school districts, charter schools, and at the Utah Schools for the Deaf and the Blind for those who are deafblind, serving as a resource for, or team member of, individual IEP teams.
- (3) The board may authorize and approve the costs of an employee to obtain a deafblind certification or equivalent training and expertise to qualify for the position described in Subsection (2).
- (4) The board may contract with a third party for the services required under Subsection (2).

Amended by Chapter 144, 2016 General Session

53A-25b-307 Educational Enrichment Program for Hearing and Visually Impaired Students -- Funding for the program.

- (1) There is established the Educational Enrichment Program for Hearing and Visually Impaired Students.
- (2) The purpose of the program is to provide opportunities that will, in a family friendly environment, enhance the educational services required for deaf, blind, or deafblind students.
- (3) The advisory council shall design and implement the program, subject to the approval by the board.
- (4) The program shall be funded from the interest and dividends derived from the permanent funds created for the Utah Schools for the Deaf and the Blind pursuant to Section 12 of the Utah Enabling Act and distributed by the director of the School and Institutional Trust Lands Administration under Section 53C-3-103.

Enacted by Chapter 294, 2009 General Session

Part 4 Employees

53A-25b-401 Educators exempt from Department of Human Resource Management rules -- Collective bargaining agreement.

- (1) Educators employed by the Utah Schools for the Deaf and the Blind are exempt from mandatory compliance with rules of the Department of Human Resource Management.
- (2) The board may enter into a collective bargaining agreement to establish compensation and other personnel policies with educators employed by the Utah Schools for the Deaf and the Blind to replace rules of the Department of Human Resource Management.
- (3) A collective bargaining agreement made under Subsection (2) is subject to the same requirements that are imposed on local school boards by Section 53A-3-411.

Enacted by Chapter 294, 2009 General Session

53A-25b-402 Annual salary adjustments for educators.

- (1) Subject to future budget constraints, the Legislature shall annually appropriate money to the board for the salary adjustments described in this section, including step and lane changes.
- (2) The board shall include in its annual budget request for the Utah Schools for the Deaf and the Blind an amount of money sufficient to adjust educators' salaries as described in Subsection (3) and fund step and lane changes.
- (3)
 - (a) The board shall determine the salary adjustment specified in Subsection (2) by:
 - (i) calculating a weighted average salary adjustment for nonadministrative licensed staff adopted by the school districts of the state, with the average weighted by the number of teachers in each school district; and
 - (ii) increasing the weighted average salary adjustment by 10% in any year in which teachers of the Utah Schools for the Deaf and the Blind are not ranked in the top 10 in 20-year earnings when compared to earnings of teachers in the school districts of the state.
 - (b) In calculating a weighted average salary adjustment for nonadministrative licensed staff adopted by the school districts of the state under Subsection (3)(a), the board shall exclude educator salary adjustments provided pursuant to Section 53A-17a-153.
- (4) From money appropriated to the board for salary adjustments, the board shall adjust the salary schedule applicable to educators at the school each year.

Enacted by Chapter 294, 2009 General Session

Part 5
Utah State Instructional Materials Access Center

53A-25b-501 Instructional Materials Access Center -- Board to make rules.

- (1) The board shall collaborate with the Utah Schools for the Deaf and the Blind, school districts, and charter schools in establishing the Utah State Instructional Materials Access Center to provide students with print disabilities access to instructional materials in alternate formats in a timely manner.
- (2) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
 - (a) establish the Utah State Instructional Materials Access Center;
 - (b) define how the Educational Resource Center at the Utah Schools for the Deaf and the Blind shall collaborate in the operation of the Utah State Instructional Materials Access Center;
 - (c) specify procedures for the operation of the Utah State Instructional Materials Access Center, including procedures to:
 - (i) identify students who qualify for instructional materials in alternate formats; and
 - (ii) distribute and store instructional materials in alternate formats;
 - (d) establish the contribution of school districts and charter schools towards the cost of instructional materials in alternate formats; and
 - (e) require textbook publishers, as a condition of contract, to provide electronic file sets in conformance with the National Instructional Materials Accessibility Standard.

Amended by Chapter 144, 2016 General Session

